

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 432, As Amended

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT; AMENDING TITLE
2 19, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 48, TITLE 19, IDAHO
3 CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO ESTAB-
4 LISH THE CRIMINAL JUSTICE INTEGRATED DATA SYSTEM, TO PROVIDE CERTAIN
5 POWERS FOR THE STATE CONTROLLER, TO PROVIDE CERTAIN RESTRICTIONS ON A
6 MEMORANDUM OF UNDERSTANDING, TO PROVIDE THAT CERTAIN RECORDS SHALL BE
7 EXEMPT FROM DISCLOSURE, TO ESTABLISH THE DATA OVERSIGHT COUNCIL, TO
8 PROVIDE FOR MEMBERSHIP OF THE COUNCIL, TO PROVIDE CERTAIN PROCEDURES
9 AND REQUIREMENTS FOR THE COUNCIL AND STATE CONTROLLER, AND TO PROVIDE
10 IMMUNITY FOR CERTAIN PERSONS; AND AMENDING SECTION 74-105, IDAHO CODE,
11 TO PROVIDE THAT CERTAIN RECORDS OF THE CRIMINAL JUSTICE INTEGRATED DATA
12 SYSTEM SHALL BE EXEMPT FROM DISCLOSURE.
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Title 19, Idaho Code, be, and the same is hereby amended
16 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
17 ter 48, Title 19, Idaho Code, and to read as follows:

18 CHAPTER 48

19 CRIMINAL JUSTICE INTEGRATED DATA SYSTEM ACT

20 19-4801. SHORT TITLE. This chapter shall be known and may be cited as
21 the "Criminal Justice Integrated Data System Act."

22 19-4802. LEGISLATIVE INTENT. The local governments and state agencies
23 and departments that comprise and interact with the criminal justice sys-
24 tem in Idaho possess a wealth of data. A centralized data repository to man-
25 age and link data across separate entities will aid in evaluating the effec-
26 tiveness of the criminal justice system and enable data-driven, cost-sav-
27 ing decision-making on issues facing the criminal justice system in Idaho.
28 The Criminal Justice Integrated Data System establishes the legal framework
29 by which the various contributing entities may share, integrate, merge, ob-
30 serve, examine, and research siloed data in a way that protects sensitive or
31 legally protected personal information.

32 19-4803. CRIMINAL JUSTICE INTEGRATED DATA SYSTEM. (1) There is hereby
33 created in the office of the state controller the criminal justice inte-
34 grated data system to receive, store, secure, and maintain data and infor-
35 mation from local governments, state agencies and departments, or volunteer
36 nongovernmental entities.

37 (2) The office of the state controller, as the managing agency of the
38 criminal justice integrated data system, may:

1 (a) Require contributing local governments, state agencies and depart-
2 ments, or volunteer nongovernmental entities to deliver data and infor-
3 mation in a certain format and on schedules established for the criminal
4 justice integrated data system; and

5 (b) Enter into or adopt a memorandum of understanding with each con-
6 tributing local government, state agency and department, or volunteer
7 nongovernmental entity, and such memorandum must identify the confi-
8 dentiality of the information and any conditions or restrictions on the
9 use of the data or information.

10 (3) No memorandum of understanding with a contributing volunteer non-
11 governmental entity shall:

12 (a) Give said volunteer nongovernmental entity priority in determin-
13 ing the use of the data system or compel the criminal justice integrated
14 data system to produce any project, report, or data analysis for or on
15 behalf of any contributing volunteer nongovernmental entity; or

16 (b) Waive or otherwise inhibit a contributing volunteer nongovernmen-
17 tal entity's option to discontinue further contribution of data or in-
18 formation to the criminal justice integrated data system at any time.

19 (4) The records and data collected and stored by the criminal justice
20 integrated data system shall be exempt from disclosure as set forth in sec-
21 tion 74-105(19), Idaho Code. The confidentiality of all records and data
22 collected by the criminal justice integrated data system shall comply with
23 applicable state and federal laws governing the privacy of records, data,
24 and personal identifiable information.

25 19-4804. DATA OVERSIGHT COUNCIL. (1) There is hereby created in the
26 office of the state controller the data oversight council. All requests for
27 projects, reports, and data analyses generated from the criminal justice in-
28 tegrated data system must be approved by the data oversight council.

29 (2) The data oversight council shall be comprised of:

30 (a) The governor or his designee;

31 (b) The chief justice of the Idaho supreme court or his designee;

32 (c) The attorney general or his designee;

33 (d) The state controller or his designee;

34 (e) The director of the department of correction or his designee;

35 (f) The executive director of the commission of pardons and parole or
36 his designee;

37 (g) The director of the department of juvenile corrections or his de-
38 signee;

39 (h) The director of the department of health and welfare or his de-
40 signee;

41 (i) The director of the Idaho state police or his designee;

42 (j) The administrator of the office of information technology services
43 or his designee; and

44 (k) A designee from the state department of education selected by the
45 governor.

46 (3) Any designee under subsection (2) of this section must be an em-
47 ployee in the office, agency, or department of his respective designating
48 authority. Members of the data oversight council shall serve without any ad-
49 ditional compensation or honorarium.

1 (4) The data oversight council, by majority vote, shall elect a chair-
2 man among its members who shall serve a term of two (2) years while serving on
3 the council.

4 (5) All meetings of the data oversight council shall be held in com-
5 pliance with the open meetings law as provided in chapter 2, title 74, Idaho
6 Code.

7 (6) The state controller shall work in collaboration with the data
8 oversight council to manage the criminal justice integrated data system. It
9 shall be the duty of the state controller, in conjunction with the data over-
10 sight council, to assure confidentiality of all records and data collected
11 by the criminal justice integrated data system and to assure compliance
12 with applicable state and federal laws and rules governing the privacy of
13 records, data, and personal identifiable information.

14 (7) Any projects, reports, or data analyses in final form produced by
15 persons authorized to conduct research and analyses under this chapter shall
16 belong to the requesting local government or state agency or department and
17 not the office of the state controller.

18 (8) The Idaho legislature, as well as the contributing state agencies
19 and department and local governments shall have priority in requesting any
20 projects, reports, or data analyses to be produced by persons authorized by
21 the data oversight council. The data oversight council may, in its discre-
22 tion, deny any requested project, report, or data analysis where it deter-
23 mines the request is unduly burdensome, voluminous, or cost-prohibitive.

24 (9) The office of the state controller, members of the data oversight
25 council, and all contributing local governments, state agencies and depart-
26 ments, or volunteer nongovernmental entities shall be immune from liability
27 to any person or entity for any invasion of the right to privacy or use of
28 records or data generated by the criminal justice integrated data system.

29 (10) In collaboration with contributing local governments, state agen-
30 cies and departments, or volunteer nongovernmental entities and the data
31 oversight council, the state controller may establish policies addressing
32 the creation of reports generated through the query of records and data pos-
33 sessed by the criminal justice integrated data system. Provided, however,
34 contributing volunteer nongovernmental entities may only collaborate with
35 respect to the data or information contributed by that volunteer nongovern-
36 mental entity.

37 SECTION 2. That Section 74-105, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS,
40 INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS,
41 WORKER'S COMPENSATION. The following records are exempt from disclosure:

42 (1) Investigatory records of a law enforcement agency, as defined in
43 section 74-101(7), Idaho Code, under the conditions set forth in section
44 74-124, Idaho Code.

45 (2) Juvenile records of a person maintained pursuant to chapter 5,
46 title 20, Idaho Code, except that facts contained in such records shall be
47 furnished upon request in a manner determined by the court to persons and
48 governmental and private agencies and institutions conducting pertinent
49 research studies or having a legitimate interest in the protection, welfare

1 and treatment of the juvenile who is thirteen (13) years of age or younger.
2 If the juvenile is petitioned or charged with an offense which would be a
3 criminal offense if committed by an adult, the name, offense of which the
4 juvenile was petitioned or charged and disposition of the court shall be sub-
5 ject to disclosure as provided in section 20-525, Idaho Code. Additionally,
6 facts contained in any records of a juvenile maintained under chapter 5,
7 title 20, Idaho Code, shall be furnished upon request to any school district
8 where the juvenile is enrolled or is seeking enrollment.

9 (3) Records of the custody review board of the Idaho department of ju-
10 venile corrections, including records containing the names, addresses and
11 written statements of victims and family members of juveniles, shall be ex-
12 empt from public disclosure pursuant to section 20-533A, Idaho Code.

13 (4) (a) The following records of the department of correction:

14 (i) Records of which the public interest in confidentiality, pub-
15 lic safety, security and habilitation clearly outweighs the pub-
16 lic interest in disclosure as identified pursuant to the authority
17 of the Idaho board of correction under section 20-212, Idaho Code;

18 (ii) Records that contain any identifying information, or any in-
19 formation that would lead to the identification of any victims or
20 witnesses;

21 (iii) Records that reflect future transportation or movement of a
22 prisoner;

23 (iv) Records gathered during the course of the presentence inves-
24 tigation;

25 (v) Records of a prisoner, as defined in section 74-101(10),
26 Idaho Code, or probationer shall not be disclosed to any other
27 prisoner or probationer.

28 (b) Records, other than public expenditure records, related to pro-
29 posed or existing critical infrastructure held by or in the custody
30 of any public agency only when the disclosure of such information is
31 reasonably likely to jeopardize the safety of persons, property or the
32 public safety. Such records may include emergency evacuation, escape
33 or other emergency response plans, vulnerability assessments, oper-
34 ation and security manuals, plans, blueprints or security codes. For
35 purposes of this section, "system" includes electrical, computer and
36 telecommunication systems, electric power (including production, gen-
37 erating, transportation, transmission and distribution), heating,
38 ventilation, and air conditioning. For purposes of this subsection,
39 "critical infrastructure" means any system or asset, whether physical
40 or virtual, so vital to the state of Idaho, including its political sub-
41 divisions, that the incapacity or destruction of such system or asset
42 would have a debilitating impact on state or national economic secu-
43 rity, state or national public health or safety or any combination of
44 those matters.

45 (c) Records of the commission of pardons and parole shall be exempt from
46 public disclosure pursuant to section 20-213A, Idaho Code, and section
47 20-223, Idaho Code. Records exempt from disclosure shall also include
48 those containing the names, addresses and written statements of vic-
49 tims.

1 (5) Voting records of the sexual offender classification board. The
2 written record of the vote to classify an offender as a violent sexual preda-
3 tor by each board member in each case reviewed by that board member shall be
4 exempt from disclosure to the public and shall be made available upon request
5 only to the governor, the chairman of the senate judiciary and rules commit-
6 tee, and the chairman of the house of representatives judiciary, rules and
7 administration committee, for all lawful purposes.

8 (6) Records of the sheriff or Idaho state police received or maintained
9 pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating
10 to an applicant or licensee except that any law enforcement officer and law
11 enforcement agency, whether inside or outside the state of Idaho, may access
12 information maintained in the license record system as set forth in section
13 18-3302K(16), Idaho Code.

14 (7) Records of investigations prepared by the department of health and
15 welfare pursuant to its statutory responsibilities dealing with the protec-
16 tion of children, the rehabilitation of youth, adoptions and the commitment
17 of mentally ill persons. For reasons of health and safety, best interests of
18 the child or public interest, the department of health and welfare may pro-
19 vide for the disclosure of records of investigations associated with actions
20 pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by
21 the department of health and welfare pursuant to its statutory responsibili-
22 ties dealing with the protection of children except any such records regard-
23 ing adoptions shall remain exempt from disclosure.

24 (8) Records including, but not limited to, investigative reports,
25 resulting from investigations conducted into complaints of discrimination
26 made to the Idaho human rights commission unless the public interest in
27 allowing inspection and copying of such records outweighs the legitimate
28 public or private interest in maintaining confidentiality of such records.
29 A person may inspect and copy documents from an investigative file to which
30 he or she is a named party if such documents are not otherwise prohibited from
31 disclosure by federal law or regulation or state law. The confidentiality of
32 this subsection will no longer apply to any record used in any judicial pro-
33 ceeding brought by a named party to the complaint or investigation, or by the
34 Idaho human rights commission, relating to the complaint of discrimination.

35 (9) Records containing information obtained by the manager of the Idaho
36 state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on
37 behalf of employers or employees contained in underwriting and claims for
38 benefits files.

39 (10) The worker's compensation records of the Idaho industrial commis-
40 sion provided that the industrial commission shall make such records avail-
41 able:

42 (a) To the parties in any worker's compensation claim and to the indus-
43 trial special indemnity fund of the state of Idaho; or

44 (b) To employers and prospective employers subject to the provisions of
45 the Americans with disabilities act, 42 U.S.C. 12112, or other statu-
46 tory limitations, who certify that the information is being requested
47 with respect to a worker to whom the employer has extended an offer of
48 employment and will be used in accordance with the provisions of the
49 Americans with disabilities act, 42 U.S.C. 12112, or other statutory
50 limitations; or

1 (c) To employers and prospective employers not subject to the provi-
2 sions of the Americans with disabilities act, 42 U.S.C. 12112, or other
3 statutory limitations, provided the employer presents a written autho-
4 rization from the person to whom the records pertain; or

5 (d) To others who demonstrate that the public interest in allowing in-
6 spection and copying of such records outweighs the public or private in-
7 terest in maintaining the confidentiality of such records, as deter-
8 mined by a civil court of competent jurisdiction; or

9 (e) Although a claimant's records maintained by the industrial commis-
10 sion, including medical and rehabilitation records, are otherwise ex-
11 empt from public disclosure, the quoting or discussing of medical or re-
12 habilitation records contained in the industrial commission's records
13 during a hearing for compensation or in a written decision issued by the
14 industrial commission shall be permitted; provided further, the true
15 identification of the parties shall not be exempt from public disclo-
16 sure in any written decision issued and released to the public by the in-
17 dustrial commission.

18 (11) Records of investigations compiled by the commission on aging in-
19 volving vulnerable adults, as defined in section 18-1505, Idaho Code, al-
20 leged to be abused, neglected or exploited.

21 (12) Criminal history records and fingerprints, as defined by section
22 67-3001, Idaho Code, and compiled by the Idaho state police. Such records
23 shall be released only in accordance with chapter 30, title 67, Idaho Code.

24 (13) Records furnished or obtained pursuant to section 41-1019, Idaho
25 Code, regarding termination of an appointment, employment, contract or
26 other insurance business relationship between an insurer and a producer.

27 (14) Records of a prisoner or former prisoner in the custody of any state
28 or local correctional facility, when the request is made by another prisoner
29 in the custody of any state or local correctional facility.

30 (15) Except as provided in section 72-1007, Idaho Code, records of the
31 Idaho industrial commission relating to compensation for crime victims un-
32 der chapter 10, title 72, Idaho Code.

33 (16) Records or information identifying a complainant maintained by the
34 department of health and welfare pursuant to section 39-3556, Idaho Code,
35 relating to certified family homes, unless the complainant consents in writ-
36 ing to the disclosure or the disclosure of the complainant's identity is re-
37 quired in any administrative or judicial proceeding.

38 (17) Records of any certification or notification required by federal
39 law to be made in connection with the acquisition or transfer of a firearm,
40 including a firearm as defined in 26 U.S.C. 5845(a).

41 (18) Records related to the administration of the extraordinary lit-
42 igation fund by the state public defense commission, pursuant to section
43 19-850(2)(e), Idaho Code, to the extent that such records contain informa-
44 tion protected by, or exempted from disclosure by, or under rules adopted by
45 the Idaho supreme court, attorney work product or as attorney-client priv-
46 ileged communication. This exemption does not include the amount awarded
47 based upon an application for extraordinary litigation funds.

48 (19) Records and information received by the office of the state con-
49 troller from any local government, state agency and department, or volunteer
50 nongovernmental entity for purposes of entry into the criminal justice

1 integrated data system pursuant to section 19-4803, Idaho Code, and all
2 records created by persons authorized to research and analyze information
3 entered into the criminal justice integrated data system, regardless of
4 whether such records were previously exempted from disclosure or redacted
5 pursuant to state or federal law or court order. This exemption does not
6 apply to projects, reports, and data analyses approved for release by the
7 data oversight council and issued by persons authorized to conduct research
8 and analysis as set forth in chapter 48, title 19, Idaho Code. Records and
9 information relating to the management of the criminal justice integrated
10 data system shall not be exempt from disclosure except as otherwise provided
11 in law.